

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MISSOURI  
EASTERN DIVISION

UNITED STATES OF AMERICA,	)	
	)	
Plaintiff,	)	
	)	
vs.	)	Case No. 4:08CR436 CDP
	)	
MICHAEL LIVINGSTON,	)	
	)	
Defendant.	)	

**ORDER**


This matter is before the Court on defendant's objection to the Order of Magistrate Judge Mary Ann L. Medler for the videotaped deposition of material witness Jose Velasquez-Garcia. I have considered the objections under Rule 59(a), Fed. R. Crim. P., and conclude that no part of the order is contrary to law or clearly erroneous. In fact, I conclude that the Magistrate Judge's order is correct in its analysis of the issue of whether a videotaped deposition should be taken. I will therefore overrule the objections, for the reasons stated by Judge Medler.

This order is not a ruling that the deposition will be admissible at trial. As Judge Medler correctly pointed out, the government will only be allowed to use the deposition at trial if it shows that it has made good-faith, reasonable efforts to obtain the witness' appearance, as live testimony is always preferred. The government should understand that this order is *not* a ruling that deportation, by

itself, is a sufficient showing of good-faith, reasonable efforts to obtain the witness' appearance at trial.

Accordingly,

**IT IS HEREBY ORDERED** that defendant's objections to the Magistrate Judge's Order for videotaped deposition of witness Jose Velasquez-Garcia are overruled.

  
CATHERINE D. PERRY  
UNITED STATES DISTRICT JUDGE

Dated this 3rd day of December, 2008.